

# 2004 LEGISLATIVE SUMMARY



***Virginia***  
***Department of Taxation***

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**Tax Commissioner**

# INTRODUCTION

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The **Legislative Summary** is published by the Department of Taxation (TAX) as a convenient reference guide to state and local tax legislation enacted by the 2004 Regular and Special Sessions of the General Assembly. It includes a general description of enacted legislation affecting:

- ◆ State taxes administered by TAX, and
- ◆ Local taxes for which TAX assists with administration or on which TAX renders advisory assistance.

All references to chapter numbers are to the corresponding chapters in the Acts of Assembly. Effective dates of the legislation vary and are set out in each respective description.

The **Summary** also includes legislative studies in which TAX will be directly involved or acting in a technical support role. In general, however, legislation granting property tax exemptions, creating special taxing jurisdictions or affecting taxes administered by other state agencies is not included in the **Summary**.

The **Summary** is intended to provide a synopsis of enacted legislation and is for information purposes only. The **Summary** is not a substitute for the actual state law, local ordinances, and TAX regulations. The **Summary** is not intended to be an authoritative interpretation of the legislation. Additional information on new legislation affecting state taxes may be obtained from TAX at the following telephone numbers:

<b>Individual Income Tax</b>	<b>(804) 367-8031</b>
<b>Email: <a href="mailto:tax-indivtrn@state.va.us">tax-indivtrn@state.va.us</a></b>	<b>(Personal tax inquires)</b>
<b>Corporation Income Tax</b>	<b>(804) 367-8037</b>
<b>Sales and Use Tax</b>	<b>(804) 367-8037</b>
<b>Employer Withholding Tax</b>	<b>(804) 367-8037</b>
<b>Email: <a href="mailto:tax-busqtns@state.va.us">tax-busqtns@state.va.us</a></b>	<b>(Business tax inquires)</b>
<b>Voice/TDD</b>	<b>(804) 367-8329</b>

Additional information on new local tax legislation should be obtained from your local Commissioner of the Revenue, Treasurer, or Director of Finance.

**Virginia Department of Taxation  
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# **STATE TAX**

# **LEGISLATION**

## **General Provisions**

### ***Virginia Fraud Against Taxpayers Act; Exception for State and Local Taxes - New***

Senate Bill 343 (Chapter 589) amends the Virginia Fraud Against Taxpayers Act to exempt all state and local taxes. Currently, only income taxes are exempted from the Act. The Virginia Fraud Against Taxpayers Act allows citizens to sue anyone who has defrauded the state with a false claim.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 8.01-216.3

### ***Collection of State Taxes by Local Treasurers - New***

House Bill 924 (Chapter 546) allows the Department of Taxation to appoint local government treasurers to collect delinquent state taxes in the same manner as they collect delinquent local taxes.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-1803

## INCOME TAX

### ***Advancement of Virginia's Fixed Date of Conformity to the Internal Revenue Code - Amended***

Senate Bill 526 (Chapter 512) advances Virginia's date of conformity to the Internal Revenue Code ("IRC") from December 31, 2002 to December 31, 2003. Virginia will continue to disallow any bonus depreciation allowed for certain assets under federal income taxation and any 5 year carry-back of net operating losses ("NOL") allowed for NOLs generated in either taxable year 2001 or 2002.

This bill allows the increased amount for section 179 expensing to flow through to Virginia taxpayers. Also, it allows income tax provisions, which provide income tax relief to members of the armed forces and their families, to flow through to Virginia income taxes. Finally, this bill makes the provisions relating to the income tax deduction for Health Savings Accounts available to Virginia taxpayers.

**Effective Date:** Same as the Federal effective date for all affected provisions  
**Code Section Amended:** § 58.1-301

## Corporations

### ***Credit for Cigarettes Manufactured and Exported - New***

House Bill 5001 (Chapter 4, 2004 Special Session I) creates a new corporate income tax credit for qualifying exports of cigarettes manufactured in Virginia. The amount of the credit depends on the amount by which the taxpayer's exports in the taxable year exceed its exports in the taxable year that began in 2004. The credit cannot exceed \$6 million or 50% of the taxpayer's taxable income. Also, the total credits granted to all taxpayers cannot exceed \$6 million per year. Because taxpayers may qualify for more than \$6 million in credits, the Department will develop a system to allow taxpayers to reserve credits and to allocate the \$6 million among taxpayers.

**Effective Date:** Taxable years beginning on or after January 1, 2006, but before January 1, 2016.

**Code Section Added:** § 58.1-439.12:01

### ***Major Business Facility Job Tax Credit - Extended***

Senate Bill 231 (Chapter 170) extends the sunset date for the Major Business Facility Job Tax Credit from January 1, 2005, to January 1, 2010.

**Effective Date:** Taxable years beginning on or after January 1, 2005

**Code Section Amended:** § 58.1-439

### ***Major Business Facility Job Tax Credit Job Threshold Lowered Under Certain Conditions - Amended***

House Bill 615 (Chapter 619) reduces the threshold required to qualify for the Major Business Facility Job Tax Credit from 100 new qualified full-time jobs to 25 when the facility is located in a severely economically distressed area. A severely economically distressed area is one in which the unemployment rate for the preceding year is at least twice the statewide average unemployment rate. The credit is available for two years (taxable years beginning on or after January 1, 2004, but before January 1, 2006) and is limited to \$100,000 per year for all taxpayers. The \$100,000 cap only applies to credits allowable under the proposed reduced threshold. Taxpayers who create more than 50 jobs are still eligible for the credit for creating jobs in economically distressed areas or enterprise zones.

**Effective Date:** Taxable years beginning on or after January 1, 2004

**Code Section Amended:** § 58.1-439

***Neighborhood Assistance Act Tax Credit - Extended***

House Bill 237 (Chapter 216) and Senate Bill 436 (Chapter 699) extend the sunset date for tax credits allowed under the Neighborhood Assistance Act from the close of fiscal year 2004 to the close of fiscal year 2009.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 63.2-2002

***Neighborhood Assistance Act Tax Credit – Clarified***

House Bill 239 (Chapter 183) clarifies that clinics operated by a neighborhood organization that has received an allocation of Neighborhood Assistance tax credits may grant such credits to individuals who provide health care services without charge.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 63.2-2004

***Neighborhood Assistance Act Tax Credit – Expanded***

House Bill 285 (Chapter 725) and Senate Bill 81 (Chapter 657) make Neighborhood Assistance Credits available to eligible health professionals who provide health care services within the scope of their licensure, without charge, regardless of where those services are delivered.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 63.2-2004

***Neighborhood Assistance Act Tax Credit; Qualifying Professional Services - New***

Senate Bill 81 (Chapter 657) makes Neighborhood Assistance Act Credits available to chiropractors who donate time to perform health care services at a qualified health clinic.

**Effective Date:** July 1, 2003

**Code Section Amended:** § 63.2-2004

***Land Preservation Tax Credit Assignment of Liability - New***

House Bill 1185 (Chapter 635) allows a pass-through entity that allocates or transfers Land Preservation Tax Credits among taxpayers to designate a general partner, member, or shareholder as primarily responsible for a tax liability resulting from the disallowance of any portion of the credit in the future. If the designated person fails to satisfy the liability, the Department may proceed with collection actions against the persons claiming the credit.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-513

***Qualified Equity and Subordinated Debt Investment Tax Credit - Amended***

House Bill 282 (Chapter 614) makes a number of changes to the Qualified Equity and Subordinated Debt Investment Tax Credit. This credit:

- Reduces the minimum period in which an issuer may require redemption of an equity investment from 5 to 3 years from the date of issuance;
- Replaces the requirement that a “qualified business” be domiciled in Virginia with a requirement that the business’ principal office or facility be located in Virginia;
- Reduces the annual maximum revenue level required for a “qualified business” from \$5 million to \$3 million;
- Establishes that a “qualified business” would not include businesses that have already successfully raised more than \$3 million in total investment capital;
- Prohibits any taxpayers that manage capital in excess of \$10,000,000 and engage in the business of making debt or equity investments in private businesses from claiming the credit;
- Reduces the required holding period of an equity investment from 5 years to 3 years;
- Eliminates the tax penalty for failure to meet the holding period; and,
- Allows applications for certification as a “qualified business” to be filed after the investments are issued.

**Effective Date:** Taxable years beginning on or after January 1, 2005

**Code Section Amended:** § 58.1-339.4

***Machinery and Equipment Used to Process Recyclable Materials Credit - Extended***

Senate Bill 690 (Chapter 611) extends the sunset date from January 1, 2004 to January 1, 2007 for the corporate income tax credit for the purchase of machinery and equipment used to produce personal property from recyclable materials.

**Effective Date:** Taxable years beginning on or after January 1, 2004

**Code Section Amended:** § 58.1-439.7

***Requirements for Adding Back Intangible and Interest Expenses Paid to Related Members - New***

House Bill 5018 (Chapter 3, 2004 Special Session I) requires corporations to add back intangible and interest expenses paid to related members. The only interest required to be added back is that related to intangibles. There are four safe harbor provisions for intangible expenses only.

First, if the corresponding item of income received by the related member is subject to a tax imposed by Virginia, another state or a foreign government, it does not have to be added back.

Second, if the related member derives at least one-third of its gross revenues from the licensing of intangible property to parties who are not related members and such a transaction was made at rates and terms comparable to those that the related member has entered into with parties who are not related members, the add back provision does not apply.

The third safe harbor has two conditions that must be established to the satisfaction of the Tax Commissioner. First, the corporation must show that the related member, during the same taxable year, directly or indirectly paid, accrued or incurred such intangible expenses and costs to a person who is not a related member. Second, the corporation must demonstrate that the transaction giving rise to the intangible expenses and costs between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due. If these conditions are met, the add back provision will not apply.

Finally, there is a valid business purpose safe harbor. In order to qualify for this, a corporation must first file an income tax return for the taxable year and remit to the Tax Commissioner all taxes, penalties, and interest due for such taxable year including tax upon any amount required to be added back. The corporation may then petition the Tax Commissioner to consider evidence relating to the transaction between the corporation and a related member that resulted in the corporation's taxable income being increased for added back interest expenses and costs. If the corporation can demonstrate to the Tax Commissioner's satisfaction that the transaction between the corporation and related member resulting in the added back portion of the taxable income had a valid business purpose other than the avoidance or reduction of the tax due and that the related payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall permit the corporation to file an amended return.

Banks will be allowed to offset any amount added back by a related member corporation on their Bank Franchise Tax returns if such amount is included in their retained earnings.

**Effective Date:** Taxable years beginning on or after January 1, 2004.

**Code Sections Amended:** §§ 58.1-302, 58.1-402 and 58.1-1206

***Electric Supplier Minimum Tax - New***

Senate Bill 681 (Chapter 716) requires electric suppliers to pay a minimum tax rather than a corporate income tax for any taxable year their minimum tax liability is greater than their corporate income tax liability. The minimum tax is equal to 1.45% of the electric supplier's gross receipts minus the state's portion of the electric utility consumption tax billed to consumers. For electric cooperatives that are exempt from federal taxation, the minimum tax is equal to 1.45% of the cooperative's gross receipts from sales to nonmembers minus the consumption tax billed to nonmembers. Cooperatives pay the minimum tax only when it exceeds their modified net income tax.

**Effective Date:** Taxable years beginning on or after January 1, 2004

**Code Sections Amended:** §§ 58.1-2628 and 58.1-2674.1

**Code Section Added:** § 58.1-400.3

**Pass-Through Entities*****Filing Requirements for Pass-Through Entities - New***

House Bill 5018 (Chapter 3, 2004 Special Session I) requires pass-through entities to file an annual information return with the Department of Taxation setting forth their income and a list of their owners. The Department is allowed to establish an income threshold for this requirement. In addition, pass-through entities can apply to the Department to file a single composite return for all nonresident shareholders.

Entities are required to file returns using electronic medium prescribed by the Department. However, the Department is authorized to waive this requirement for businesses with small numbers of owners. If a pass-through entity fails to file a return, a penalty is imposed in the amount of \$200 for each month or fraction thereof during which such failure to file continues, not exceeding six months in aggregate.

**Effective Date:** Taxable years beginning on or after January 1, 2004.

**Code Sections Amended:** §§ 58.1-391, 58.1-392 and 58.1-441

**Code Sections Added:** §§ 58.1-390.1, 58.1-390.2, 58.1-393.1, 58.1-394.1, 58.1-394.2 and 58.1-395

**Code Sections Repealed:** §§ 58.1-390 and 58.1-394

## Individual Income Tax

### ***Age Deduction - Amended***

House Bill 5018 (Chapter 3, 2004 Special Session I) subjects the current \$12,000 age deduction for certain taxpayers to a reduction based on income and phases out the current \$6,000 age deduction. Individuals eligible to receive the \$12,000 age deduction prior to taxable year 2004 will continue to receive the full \$12,000 age deduction without reduction. Individuals eligible to receive the \$6,000 age deduction prior to taxable year 2004 will continue to receive this deduction until they reach age 65. At that time, they will receive a \$12,000 age deduction subject to a reduction based upon income.

Individuals who have not been eligible to receive an age deduction prior to taxable year 2004 will not be eligible to receive an age deduction until they reach the age of 65. Once they reach age 65, they will receive a \$12,000 age deduction subject to a reduction based upon income.

Those individuals who receive a \$12,000 income-related age deduction will reduce their age deduction by \$1 for every \$1 of adjusted federal adjusted gross income above \$50,000. Married individuals will reduce their \$12,000 income-related age deduction by \$1 for every \$1 of their total combined adjusted federal adjusted gross income above \$75,000. For married taxpayers filing separately, the \$12,000 income-related age deduction will be reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000. The reductions for married taxpayers apply as described, even if only one of the married taxpayers is eligible for the \$12,000 deduction.

“Adjusted federal adjusted gross income,” means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal taxation solely under IRC § 86.

**Effective Date:** Taxable years beginning on or after January 1, 2004  
**Code Section Amended:** § 58.1-322

### ***Personal Exemptions - Increased***

House Bill 5018 (Chapter 3, 2004 Special Session I) increases the personal exemption amount from \$800 to \$900. The additional exemption for taxpayers who are blind or have attained the age of 65 will remain \$800.

**Effective Date:** Taxable years beginning on or after January 1, 2005, if the Secretary of Finance certifies by November 1, 2004, that sufficient funds are available for the increase. Otherwise, the increase will be effective for taxable years beginning on or after January 1, 2006.  
**Code Section Amended:** § 58.1-322

***Standard Deduction - Increased***

House Bill 5018 (Chapter 3, 2004 Special Session I) increases the standard deduction for married individuals from \$5,000 to \$6,000.

**Effective Date:** Taxable years beginning on or after January 1, 2005.

**Code Section Amended:** § 58.1-322

***Filing Threshold - Increased***

House Bill 5018 (Chapter 3, 2004 Special Session I) increases the filing threshold from \$5,000 to \$7,000 for individuals and from \$8,000 to \$14,000 for married couples.

**Effective Date:** Taxable years beginning on or after January 1, 2005.

**Code Section Amended:** § 58.1-321

***Low-Income Credit - Expanded***

House Bill 5018 (Chapter 3, 2004 Special Session I) expands the credit for low-income taxpayers by allowing them to claim a nonrefundable credit equal to the greater of 20% of the federal earned income credit or the current Virginia low-income credit. Currently, the Virginia low-income credit provides a nonrefundable individual income tax credit equal to \$300 for each personal and dependent exemption for taxpayers with family Virginia adjusted gross income at or below the federal poverty line.

**Effective Date:** Taxable years beginning on or after January 1, 2006.

**Code Section Amended:** § 58.1-339.8

***Mailing Options to be Included with Income Tax Materials - Amended***

House Bill 104 (Chapter 521) and House Bill 902 (Chapter 544) allow the Department of Taxation the option of including a mailing address for direct filing of income tax returns with the Department as well as the mailing addresses for filing income tax returns with the Commissioners of the Revenue.

**Effective Date:** July 1, 2004

**Code Sections Amended:** § 58.1-305 and 58.1-306

***Requirements for Income Tax Return Preparers – New***

House Bill 1159 (Chapter 562) requires income tax return preparers who prepared at least 200 individual income tax returns for the taxable year beginning on January 1, 2003, or at least 100 individual income tax returns for a taxable year beginning on or after January 1, 2004 to file all individual income tax returns for all subsequent taxable years using electronic means or software that produces a two dimensional (2D) barcode reflecting information contained in the returns.

**Effective Date:** Taxable years beginning on or after January 1, 2004

**Code Section Amended:** § 58.1-9

***Limiting Number of Refund Check-Offs - Amended***

House Bill 1486 (Chapter 649) limits the number of organizations eligible to receive check-off contributions from individual income tax refunds to 25. Each check-off will be required to receive contributions of at least \$10,000 annually for three consecutive years to remain on the individual income tax return.

If an organization or entity that is a recipient of voluntary contributions at the time this bill becomes effective is removed, the following organizations will be the first two organizations added in the following order (i) the Department of Emergency Management for the Office of Commonwealth Preparedness and (ii) all entities in the Commonwealth that officially have been designated as cancer centers by the National Cancer Institute.

**Effective Date:** Taxable years beginning on and after January 1, 2004

**Code Sections Added:** §§ 30-19.1:10 and 58.1-344.3

**EMPLOYER WITHHOLDING*****Additional Withholding Allowances - Deferred***

House Bill 5001 (Chapter 4, 2004 Special Session I) defers from July 1, 2004 to July 1, 2006, the effective date of the provisions allowing taxpayers who itemize their deductions to claim additional withholding allowances.

**Effective Date:** July 1, 2004

**Code Sections Amended:** §§ 58.1-461, 58.1-462, and 58.1-470

**Section Added:** § 3-5.06 of the 2004 Appropriations Act

## **Retail Sales and Use Tax**

### ***State Sales and Use Tax –Rate Increased***

House Bill 5018 (Chapter 3, 2004 Special Session I) increases the state sales and use tax rate by one-half percent from 3.5% to 4.0%. This will bring the total combined state and local sales and use tax rate to 5.0%. The Tax Commissioner will develop and publish guidelines in order to implement this change. Such guidelines will address the bracket system for the collection of tax and transitional issues.

**Effective Date:** According to Article IV, § 13 of the Constitution of Virginia, all laws enacted during a special session take effect on the first day of the fourth month following the month of adjournment of the special session. Because the Special Session adjourned on May 7, 2004, this provision will be effective on September 1, 2004.

**Code Sections Amended:** §§ 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-614, 58.1-626, 58.1-638, 58.1-639 and 58.1-3833

**Code Sections Added:** §§ 58.1-628.2 and 58.1-638.1

**Code Sections Repealed:** §§ 58.1-627 and 58.1-628

### ***State Sales Tax on Food - Reduced***

House Bill 5018 (Chapter 3, 2004 Special Session I) reduces the state sales tax rate for food in three phases. In the first phase, effective on July 1, 2005, the rate will be reduced by 0.5% from 3% to 2.5%. Next, the rate will drop from 2.5% to 2.0% on July 1, 2006. Finally, on July 1, 2007, the rate will decrease by an additional 0.5% to 1.5%. No change is made to the definition of food eligible for the reduced tax rates. The 1% local sales tax on food remains unchanged.

Rate reductions will no longer be contingent on the advancement to the next level of the phase-out of the tangible personal property tax under the Personal Property Tax Relief Act of 1998 or the prior fiscal year's General Fund revenues.

**Effective Date:** July 1, 2005

**Code Section Amended:** § 58.1-611.1

### ***Prepaid Calling Cards Subject to Sales Tax - New***

House Bill 246 (Chapter 60) subjects the initial purchase of telephone calling cards to the retail sales and use tax while exempting such cards from all other state and local utility taxes. The purchase of subsequent additional minutes of telephone usage on such telephone calling cards will remain exempt.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-602

***Sales Tax Exemptions for Certain Public Service Corporations - Repealed***

House Bill 5018 (Chapter 3, 2004 Special Session I) eliminates the sales tax exemptions for certain public service corporations including electric suppliers, gas utilities, water and sewer utilities, telecommunications companies, telephone companies and common carriers of property or passengers by motor vehicle. Also, the manufacturing exemption will not apply to machinery, tools and equipment used by a public service corporation in the generation of electric power, except for raw materials, including fuel. The Tax Commissioner will develop and publish guidelines in order to implement these changes.

**Effective Date:** According to Article IV, § 13 of the Constitution of Virginia, all laws enacted during a special session take effect on the first day of the fourth month following the month of adjournment of the special session. Because the Special Session adjourned on May 7, 2004, this provision will be effective on September 1, 2004.

**Code Section Amended:** § 58.1-609.3

***Exemption for Printed Materials - Extended***

Senate Bill 533 (Chapter 821) extends the sunset date for the retail sales and use tax exemption allowed for the purchase of printing materials by advertising businesses when the printed material is distributed outside the Commonwealth. The exemption was scheduled to expire July 1, 2004, and is now extended to July 1, 2008.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-609.6

***Exemption for Free Distribution of Textbooks - Extended***

House Bill 1084 (Chapter 63) and Senate Bill 347 (Chapter 590) extend the sunset date of the retail sales and use tax exemption for textbooks and other educational materials withdrawn from inventory at book-publishing distribution facilities for free distribution to professors and other individuals who have an educational focus. The exemption was scheduled to expire July 1, 2004, and is now extended to July 1, 2008.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-609.6

***Sales Tax Exemption for Film and Audiovisual Works – Extended***

House Bill 1262 (Chapter 101) and Senate Bill 571 (Chapter 606) extend the sunset date for the retail sales and use tax exemption allowed for certain tangible personal property used in the production of audiovisual works. This exemption, scheduled to expire July 1, 2004, is extended until July 1, 2009.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-609.6

***Exemption for Software and Content Delivered Via the Internet - Clarified***

Senate Bill 632 (Chapter 607) codifies the Department's current policy regarding the sales and use tax exemption for services and exempt software, data, content and other informational services delivered electronically via the Internet. Transactions involving tangible personal property are not included under this exemption.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-609.5

***Nonprofit Entities Eligible for Sales and Use Tax Exemptions Clarified - Amended***

House Bill 515 (Chapter 536) and Senate Bill 585 (Chapter 515) make several technical amendments to the new sales and use tax exemption process scheduled to go into effect July 1, 2004. These bills:

- Clarify that churches may continue to use their self-issued exemption certificate instead of applying for a new exemption under the “new process” (enacted during the 2003 General Assembly). Churches using the self-issued exemption certificate will be entitled to the sales tax exemption accorded under current law.
- Provide that from July 1, 2004 through June 30, 2006, nonprofit organizations that provide rescue or firefighting services, but do not hold an exemption from federal income taxation, will be eligible for a sales tax exemption under the new process.
- Clarify that the exemption from collecting sales tax on fund-raising sales currently enjoyed by certain organizations is grandfathered. This exemption is now available to any other organization that is within the same class of organization of any entity that was exempt from collecting sales and use tax on June 30, 2003
- Authorize the Department of Taxation to refuse to grant exemption certificates to applicants that fail to disclose their total taxable purchases for the preceding year.

**Effective Date:** July 1, 2004

**Code Sections Amended:** §§ 58.1-3, 58.1-609.10 and 58.1-609.11

***Return of State Sales and Use Tax Generated by Specific Public Facilities to the City of Salem – New***

House Bill 1243 (Chapter 568) authorizes the state sales and use tax generated by sales at a public facility in the City of Salem to be returned to the City of Salem. The tax so returned to the city of Salem must be applied to the repayment of municipal bonds issued on or after July 1, 2001, but before July 1, 2005, to pay the cost of such facility.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-608.3

***Return of State Sales and Use Tax Generated by Specific Public Facilities to the City of Newport News – New***

House Bill 1208 (Chapter 566) and Senate Bill 398 (Chapter 506) authorize the state sales and use tax generated by sales at a public facility in the City of Newport News to be returned to the City of Newport News. The tax so returned to the City of Newport News must be applied to the repayment of municipal bonds issued on or after July 1, 2001, but before July 1, 2005, to pay the cost of such facility.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-608.3

***Dealers May File and Remit Sales Tax with Local Tax Official - New***

House Bill 1241 (Chapter 567) allows dealers the option of remitting their sales and use tax return and payment directly to the local Commissioner of Revenue or the local Treasurer in the locality where the dealer is located. The local officials would certify the date that the return is delivered to them by the dealer. They would date stamp and forward the return and payment to the Tax Commissioner for processing in the normal manner no later than the day following the day the return is filed with the local official. This bill does not allow the local officials to process the return and payments. The local officials may charge for postage.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-615

## MISCELLANEOUS TAXES

### APPLE TAX

#### *Elimination of Apple Excise Tax – Amended*

House Bill 171 (Chapter 214) discontinues the excise tax on apples, but permits the Apple Board to expend the balance remaining in the Apple Fund.

**Effective Date:** July 1, 2004

**Code Sections Amended:** §§ 3.1-618, 3.1-626, 3.1-634, 3.1-634.1 and 3.1-635

**Code Sections Repealed:** §§ 3.1-646.01 through 3.1-646.09

### RECORDATION TAX

#### *State Recordation Tax - Increased*

House Bill 5018 (Chapter 3, 2004 Special Session I) increases the state recordation tax from 15 cents per \$100 to 25 cents per \$100.

**Effective Date:** According to Article IV, § 13 of the Constitution of Virginia, all laws enacted during a special session take effect on the first day of the fourth month following the month of adjournment of the special session. Because the Special Session adjourned on May 7, 2004, this provision will be effective on September 1, 2004.

**Code Sections Amended:** §§ 58.1-801, 58.1-803, 58.1-807 and 58.1-808

#### *Imposition of Fee to Benefit the Virginia Outdoors Fund - New*

House Bill 549 (Chapter 990) imposes a one-dollar fee on every deed admitted to record in those jurisdictions in which open-space easements are held by the Virginia Outdoors Foundation. Fees collected will be deposited into a special fund and distributed monthly to the Virginia Outdoors Foundation.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-812

**Code Section Added:** § 58.1-817

***Contract Exemptions and Grantor's Tax Exemption – New***

House Bill 975 (Chapter 626) grants the same exemptions from the recordation tax on contracts and leases relating to real estate that apply to the recordation of any deed conveying real estate. This bill also exempt conveyances of real estate from the United States from the grantor's tax.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-811

***Incorporated Churches Exempt from Recordation Tax - New***

Senate Bill 73 (Chapter 492) provides that deeds conveying real estate to an incorporated church or religious body, deeds of trust given by an incorporated church or religious body, and deeds conveying real estate from an incorporated church or religious body are exempt from state and local recordation taxes in the same manner as the deeds and deeds of trusts of other churches. This bill also provides that the real and personal property of an incorporated church or religious body qualifies for exemption from local property taxation in the same manner as property owned by other churches.

**Effective Date:** January 1, 2004

**Code Sections Amended:** §§ 58.1-811 and 58.1-3606

***Taxes on Leases of Communications Towers, Oil and Gas Rights, Coal and Other Mineral Rights - Amended***

Senate Bill 399 (Chapter 974) sets the recordation tax on leases of communication towers or communication tower sites at \$75. This bill also sets the tax on the recordation of each lease to affix communications equipment or antenna to a communications tower at \$15 per tower. Further, this bill sets the recordation tax on the leases of oil and gas rights at \$25, and the recordation tax on the leases of coal and other mineral rights at \$50. Finally, this bill sets the recordation tax on leases of outdoor advertising signs owned by a person engaged in the business of outdoor advertising licensed by the Virginia Department of Transportation at \$25.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-807

## CIGARETTE TAX

### ***State Cigarette Tax - Increased***

House Bill 5018 (Chapter 3, 2004 Special Session I) increases the state cigarette tax in two phases. Initially, the rate will increase from 2.5 cents to 20 cents per pack. In the second phase, the rate will increase to 30 cents per pack. Wholesale dealers will be allowed to file a bond or an irrevocable letter of credit to pay for revenue stamps. The Tax Commissioner will establish and publish guidelines and rules in order to implement this change.

**Effective Date:** According to Article IV, § 13 of the Constitution of Virginia, all laws enacted during a special session take effect on the first day of the fourth month following the month of adjournment of the special session. Because the Special Session adjourned on May 7, 2004, the first phase of this provision will be effective on September 1, 2004. The second phase will be effective on July 1, 2005.

**Code Sections Amended:** §§ 58.1-1001, 58.1-1009 and 58.1-1018

**Code Sections Added:** §§ 32.1-366 and 32.1-367

### ***Statutory Procedures For Selling Cigarettes - Amended***

House Bill 862 (Chapter 1029) changes the current statutory procedures for selling cigarettes by (a) making it unlawful to purchase, possess, or affix stamps without first obtaining a permit from the Department of Taxation; (b) increasing the penalties for the failure to affix stamps; and (c) requiring stamping agents to file a monthly report with the Department regarding the cigarettes to which they affixed stamps.

**Effective Date:** July 1, 2004

**Code Sections Amended:** §§ 3.1-336.2, 3.1-336.3, 58.1-1000, 58.1-1003, 58.1-1009, 58.1-1010, 58.1-1011, and 58.1-1013

**Code Sections Repealed:** §§ 58.1-1004, 58.1-1005, and 58.1-1014

## **OTHER TOBACCO PRODUCTS TAX**

### ***Taxation of Tobacco Products Other Than Cigarettes - New***

House Bill 5018 (Chapter 3, 2004 Special Session I) imposes a new tax for tobacco products other than cigarettes (such as cigars, smokeless tobacco and pipe tobacco), at the rate of ten percent of the wholesale price. Every wholesale dealer shall file a monthly return no later than the tenth of each month. The Tax Commissioner will establish and publish guidelines and rules in order to implement this change.

**Effective Date:** March 1, 2005

**Code Sections Added:** §§ 32.1-366, 32.1-367, 58.1-1021.01, 58.1-1021.02, 58.1-1021.03, 58.1-1021.04 and 58.1-1021.05

## **TAX ADMINISTRATION AND COLLECTION**

### ***Secrecy of Tax Information; Exception For Labor & Industry - New***

Senate Bill 165 (Chapter 166) provides that the Tax Commissioner may enter into an written agreement with the Commissioner of labor and Industry to provide information to the Commissioner of Labor and Industry to facilitate the collection of wages unlawfully withheld from employees or otherwise owing to employees or the Commonwealth.

**Effective Date:** July 1, 2004  
**Code Section Amended:** § 58.1-3

### ***Secrecy of Tax Information; Exception to Find Holders of Unclaimed Property - New***

Senate Bill 166 (Chapter 582) permits the Tax Commissioner to provide to the Department of the Treasury for its confidential use the tax information needed to locate the holders of unclaimed property.

**Effective Date:** July 1, 2004  
**Code Section Amended:** § 58.1-3

### ***Secrecy of Tax Information; Exception For Human Resource Management - New***

Senate Bill 403 (Chapter 594) permits the Department of Taxation to enter into a written agreement with the Department of Human Resource Management (DHRM) to disclose confidential tax information to DHRM to facilitate the identification of persons receiving worker's compensation indemnity benefits who have failed to report earnings as required by law.

**Effective Date:** July 1, 2004  
**Code Section Amended:** § 58.1-3

### ***Declaratory Judgments; Dealers Not Required to Collect Sales and Use Taxes for Another State - New***

House Bill 1463 (Chapter 647) and Senate Bill 668 (Chapter 609) grant circuit courts jurisdiction over civil actions in which a Virginia business seeks a declaratory judgment against tax officials in other states to prevent such other states from forcing the Virginia business to collect and remit retail sales and use taxes to another state.

**Effective Date:** July 1, 2004  
**Code Section Added:** § 8.01-184.1

# **LOCAL TAX**

# **LEGISLATION**

## GENERAL PROVISIONS

### ***Offers in Compromise Acceptance by Local Officials - Amended***

House Bill 293 (Chapter 526) authorizes the commissioner of the revenue to compromise and settle any assessment of business, professional and occupational license (BPOL) taxes and business tangible personal property, merchants' capital, and machinery and tools taxes (Local Business Taxes) prior to the exhaustion of all administrative or judicial reviews upon a determination that there is substantial doubt as to the taxpayer's liability. This bill also authorizes the treasurer to compromise and settle the amount of BPOL and Local Business Taxes due and payable upon a determination that collection of the entire amount due is in substantial doubt, and the best interests of the locality will be served by such compromise.

**Effective Date:** July 1, 2004

**Code Section Added:** § 58.1-3994

### ***Local Taxes Eligible for Appeal to the State Tax Commissioner - Expanded***

House Bill 464 (Chapter 534) expands the Department of Taxation's authority to hear local tax appeals to include assessments of the tangible personal property tax on airplanes, boats, campers, recreational vehicles and trailers (the "local mobile property tax"). The Department would not be required to make a determination regarding the valuation or method of valuation for local mobile property tax assessments. The determination of value and valuation methodology would remain subject to local determinations.

Localities would be prohibited from engaging in collection activity when an appeal of a local mobile property tax assessment is made to the commissioner of the revenue or the Department of Taxation. Collection activity would be allowed if the treasurer determines that collection would be jeopardized by delay or is advised that the taxpayer has not responded to a request for relevant information after a reasonable time.

This bill also requires localities to provide taxpayers with detailed information at the time local mobile property tax assessments are issued with respect to how the assessment was determined and a description of the taxpayer's appeal rights.

**Effective Date:** Tax years beginning on or after January 1, 2005

**Code Sections Amended:** §§ 58.1-3103 and 58.1-3983.1

***Written Opinions by State Tax Commissioner Before Appeal - New***

House Bill 295 (Chapter 527) authorizes the Tax Commissioner to issue written advisory opinions in specific cases, when formally requested by taxpayers and local tax officials, regarding the business tangible personal property tax, the machinery and tools tax and the merchants' capital tax.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3983.1

***Virginia Regional Industrial Facility Authority: Appropriation of Taxes Generated at Facilities; Expands Eligible Planning Districts - Amended***

House Bill 240 (Chapter 42), House Bill 1393 (Chapter 640) and Senate Bill 546 (Chapter 603) grant localities that contain a facility established under the Virginia Regional Industrial Facilities Act the authority to direct all local tax revenues generated by the facility back to the Regional Industrial Facilities Authority. All local tax revenues received by the Authority may be used for payment of debt service on bonds and other obligations of the Authority with respect to the facility. This bill also expands this authority to include Planning Districts 1 and 2.

**Effective Date:** July 1, 2004

**Code Sections Amended:** §§ 15.2-6400 and 15.2-6406

***Property of Nonprofit Groups Exempt from Taxation - Amended***

House Bill 1076 (Chapter 557) clarifies the process localities must follow in determining whether real or personal property of certain charitable and other related organizations may be exempted from local property taxes. It creates procedures to be used in exempting such property by designation and in exempting property by classification.

**Effective Date:** January 1, 2003

**Code Sections Amended:** §§ 58.1-3400 and 58.1-3651

***Fee for Electronic Access to Public Records - New***

House Bill 465 (Chapter 223) allows local treasurers who provide electronic access to public records to charge a fee to cover the operational expenses of providing the electronic access. The fee would be assessed based upon a subscription, not to exceed \$100 per month, or a cost per page, not to exceed \$1 for the first page and 25 cents for each additional page.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3172.1

## **TANGIBLE PERSONAL PROPERTY TAX**

### ***Personal Property Tax Relief (Car Tax) Program - Capped***

Senate Bill 5005 (Chapter 1, 2004 Special Session I) changes the personal property tax relief program for motor vehicles. Beginning in 2006, the state will distribute \$950 million annually to localities as reimbursement for the personal property tax relief provided by each locality. Each locality's share of the state reimbursement will be based upon its share of the state reimbursements for tax year 2005, and will not change after 2006. Each locality receiving a state reimbursement must reduce its tax rate on the first \$20,000 value of qualifying motor vehicles so that the tax revenue plus the state reimbursement will approximately equal the revenue that would have been received without a rate reduction.

Under current law, the state reimburses localities for 100% of the tax imposed on qualifying motor vehicles valued at less than \$1,000, and 70% of the amount of tax imposed on the first \$20,000 value of other qualifying motor vehicles.

**Effective Date:** Tax years beginning in 2006 and each tax year thereafter.

**Code Sections Amended:** §§ 3.1-1111, 30-133, 58.1-3506, 58.1-3506.1, 58.1-3523, 58.1-3524, and 58.1-3912.

**Code Sections Repealed:** §§ 58.1-3525 through 58.1-3533, 58.1-3536, and 58.1-3916.01.

### ***Revised Reimbursement Rules for the Personal Property Tax Relief Act of 1998 – Amended***

House Bill 926 (Chapter 547) authorizes treasurers to apply to the Commonwealth for payment of the Personal Property Tax Relief Act of 1998 (PPTRA) reimbursement amount regarding a qualifying vehicle even though the vehicle owner has not paid the entire unreimbursed portion of the personal property tax levy, if the taxpayer has been billed and has made a partial payment that is no more than \$5 less than the actual amount due; the treasurer has determined that there is no reason to believe the erroneous payment was made in bad faith; and the treasurer has elected not to pursue collection of the balance.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3528

***Increased Number of Motor Vehicles Eligible for Special Classification - Amended***

For households containing both a member and an auxiliary member of a volunteer rescue squad or fire department, House Bill 143 (Chapter 4) and Senate Bill 349 (Chapter 591) increase from one to two the number of motor vehicles that are eligible for inclusion in the special classifications of tangible personal property for motor vehicles owned or leased by members and auxiliary members of volunteer rescue squads and fire departments that localities may tax at lower rates than applicable to the general class of tangible personal property in the locality.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3506

***Exemption for Trailers Used for Farm Animals and Farm Products - Amended***

House Bill 1030 (Chapter 556) adds privately owned trailers that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products to the list of farm property that a locality may, by ordinance, exempt or tax at a rate different from tangible personal property taxation. In addition, under the classification for tangible personal property that may be taxed only at a different rate, this bill clarifies that the definition of privately owned trailers designed and used for the transportation of horses does not include trailers used by farmers in their farming operations.

**Effective Date:** July 1, 2004

**Code Sections Amended:** §§ 58.1-3505 and 58.1-3506

***Taxation of Generating Equipment Owned by Certain Electric Suppliers - Amended***

Senate Bill 366 (Chapter 504) clarifies that generating equipment owned by electric suppliers that are not public service companies (i.e., independent power producers and cogenerators) is subject to local property taxation at a special locally determined rate that cannot exceed the real estate tax rate imposed by the locality. Generating equipment owned by public service companies will continue to be taxed at the local real estate tax rate.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-2606

***Annual Report Filing by Utilities - Amended***

Senate Bill 120 (Chapter 661) provides that the only property leased by suppliers of electricity that is reported to the State Corporation Commission, rather than the locality in which situated, are assets directly associated with production facilities, not including real estate or vehicles.

**Effective Date:** Tax years beginning on or after January 1, 2004

**Code Section Amended:** § 58.1-2628

## **REAL ESTATE TAX**

### ***Exemptions for Elderly or Disabled Persons in the City of Charlottesville and the County of Goochland- Amended***

House Bill 154 (Chapter 5) adds the City of Charlottesville while House Bill 403 (Chapter 6) and Senate Bill 122 (Chapter 494) add the County of Goochland to the cities and counties authorized to observe a \$52,000 limit on total income and a \$195,000 limit on combined net financial worth when qualifying for the real estate tax exemption and deferral program for the elderly or disabled.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3211

### ***Exemptions for Elderly or Disabled Persons in the Northern Virginia Planning District - Amended***

Senate Bill 361 (Chapter 503) authorizes localities in the Northern Virginia Planning District to increase from \$62,000 to \$72,000 the maximum income limitation for purposes of obtaining an exemption or deferral of real property taxes for qualified elderly or permanently disabled persons. These same localities would also be authorized to increase the maximum combined financial worth limitation from \$240,000 to \$340,000.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3211

### ***Alternative Payment Schedules for the Elderly and Handicapped in Prince William County - New***

House Bill 928 (Chapter 548) authorizes Prince William County to provide by ordinance alternative due dates for the payment of property taxes by taxpayers aged 65 and older and for permanently or totally disabled taxpayers. This bill also authorizes Prince William County to provide by ordinance for these taxpayers to make installment payments of real property taxes without penalty and interest.

**Effective Date:** July 1, 2004

**Code Section Added:** § 58.1-3916.02

***Increase of Statewide Income and Net Worth Limits for Elderly or Disabled to Qualify for Exemption or Deferral of Real Estate Tax - Amended***

House Bill 94 (Chapter 77) modifies the income and net worth limitations for determining whether persons sixty-five years or older, or those who are permanently and totally disabled, qualify for the exemption or deferral of local real property taxes. This bill increases the net worth limitation for determining whether these persons qualify from \$100,000 to \$200,000 and increases the amount of income that may be excluded in determining the total combined income limitation from \$7,500 to \$10,000.

In addition, this bill increases the amount of income of a non spouse relative living in the dwelling that may be excluded in determining the total combined income limitation from \$8,500 to \$10,000. Finally, this bill increases the amount of assets from \$5,000 to \$10,000 that a taxpayer can transfer to a relative who lives with and provides care to the taxpayer without the relative's income being counted towards the taxpayer's income limit.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3211

***Increase of Statewide Acreage Excluded when Calculating Net Worth of Elderly or Disabled – Amended***

House Bill 97 (Chapter 78) increases the net worth limitation when determining whether taxpayers aged sixty-five years or older, or who are permanently and totally disabled, qualify for the exemption or deferral of local real property taxes by increasing the number of acres excluded from the net worth calculation from 1 acre to 10 acres.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3211

***Collection Proceedings For Delinquent Real Estate Taxes - New***

House Bill 1453 (Chapter 645) declares that anyone who purchases tax-delinquent real estate after judicial sale proceedings have begun, and after a *Lis Pendens* (notice of pending suit) has been recorded, is not a necessary party to the lawsuit to sell the property for delinquent taxes. The purchaser must intervene in the case and file a claim with the court. Failure of such a party to file will bar the claim.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3967

***Administrative Rule Changes Regarding Sale of Property for Delinquent Taxes - Amended***

House Bill 1456 (Chapter 968) facilitates the ability of localities to abate nuisances and dispose of tax delinquent properties, including (i) expanding those instances in which an unpaid charge may constitute a lien on property; (ii) decreasing the time-period that a locality must wait prior to taking action to sell certain tax delinquent properties; (iii) expanding the ability of localities to declare a property as abandoned; (iv) expanding instances in which a locality may petition for the conveyance of a deed in lieu of a sale at public auction for certain parcels; and (v) making corporate officers personally liable for taxes and nuisance abatement costs that remain unpaid after a judicial sale.

**Effective Date:** July 1, 2004

**Code Sections Amended:** §§ 15.2-906, 15.2-1115, 58.1-3965 and 58.1-3970.1

***Establishing a Department of Real Estate Assessment in Powhatan County - New***

House Bill 1461 (Chapter 576) authorizes the County of Powhatan to establish, by resolution, its own department of real estate assessment. It also authorizes the county to enter into an agreement with any contiguous county or city for the establishment of a joint department of real estate assessment.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3274

***Nonjudicial Sale of Tax Delinquent Property by Local Treasurers - Amended***

House Bill 925 (Chapter 100) permits the local treasurers to sell tax delinquent unimproved real estate in a nonjudicial sale if it is assessed at less than \$10,000, and it is less than 4,000 square feet or it is not a buildable lot.

**Effective Date:** July 1, 2004

**Code Section Added:** § 58.1-3975

## MISCELLANEOUS TAXES

### Consumer Utility Tax

#### ***Exemption for Churches or Religious Bodies - New***

House Bill 743 (Chapter 8) and Senate Bill 71 (Chapter 159) allow any county, city or town to exempt from the local consumer utility tax any church or religious body, or the residences of their ministries.

**Effective Date:** July 1, 2004

**Code Section Amended:** §§ 58.1-3814 and 58.1-3816.2

#### ***Imposition of Telecommunications Consumer Utility Tax in the Towns of Herndon and Vienna - Amended***

House Bill 372 (Chapter 43) and Senate Bill 316 (Chapter 172) authorize the Towns of Herndon and Vienna to impose a consumer utility tax on telegraph and telephone companies by adopting an ordinance on or after July 1, 2004. This bill also provides that at such time as an ordinance is enacted by either of the towns, Fairfax County may no longer impose a consumer utility tax on telegraph and telephone companies within the limits of the town imposing the ordinance while the town ordinance remains in effect.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3812

#### ***Imposition of Telecommunications Consumer Utility Tax in the Towns of Vienna and Clifton - Amended***

Senate Bill 627 (Chapter 516) authorizes the Towns of Vienna and Clifton to impose a consumer utility tax on telegraph and telephone companies by adopting an ordinance on or after July 1, 2004. The bill also provides that at such time as an ordinance is enacted by either of the towns, Fairfax County may no longer impose a consumer utility tax on telegraph and telephone companies within the limits of the town while the town ordinance is in effect.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3812

***Imposition of Telecommunications Consumer Utility Tax in the Town of Iron Gate - Amended***

Senate Bill 14 (Chapter 489) authorizes the Town of Iron Gate to impose a consumer utility tax on telegraph and telephone companies by adopting an ordinance on or after July 1, 2004. The bill also provides that when this ordinance is enacted by the Town of Iron Gate, Alleghany County may no longer impose a consumer utility tax on telegraph and telephone companies within the town limits of Iron Gate, for as long as the ordinance is in effect.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3812

**Transient Occupancy Tax*****Floyd County Allowed to Impose Additional Tax – Amended***

House Bill 739 (Chapter 7) authorizes Floyd County to impose the transient occupancy tax at a rate not to exceed 5%. Any revenue generated over 2% must be spent for promoting tourism, travel or business that generate tourism in the county. Floyd County currently does not impose any transient occupancy tax.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3819

***Chesterfield, Hanover, and Henrico Counties Authorized to Impose Additional Tax – Amended***

House Bill 741 (Chapter 50) authorizes Chesterfield, Hanover, and Henrico counties to impose an additional transient occupancy tax not to exceed 1%. The revenues collected from the additional tax shall be designated and spent for the development and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for promoting the use of the Richmond Centre and for promoting tourism, travel or business that generates tourism and travel in the Richmond metropolitan area. These same localities are already authorized to impose an additional transient occupancy tax of up to 6% to promote other facilities and tourism in the Richmond area.

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3823

***Fairfax County Authorized to Impose Additional Tax – Amended***

House Bill 1001 (Chapter 9) authorizes Fairfax County to impose an additional 2% transient occupancy tax, provided no more than 75% of the revenue is appropriated by Fairfax County to be used in the county to promote tourism, and the remainder of the revenue is appropriated to a nonprofit convention and visitor's bureau located in the county. Fairfax County currently imposes a 2% transient occupancy tax.

**Effective Date:** July 1, 2004

**Code Section Added:** § 58.1-3824

***Rockbridge County and the Cities of Lexington and Buena Vista Authorized to Impose Additional Tax – Amended***

Senate Bill 517 (Chapter 598) authorizes Rockbridge County and the cities of Lexington and Buena Vista to impose an additional 2% transient occupancy tax. Revenues generated from the imposition of this tax will be used to pay down the principal and interest on promissory notes between the Virginia Horse Center Foundation or the Virginia Equine Center Foundation and the Rockbridge Industrial Development Authority executed prior to January 1, 2004.

**Effective Date:** July 1, 2004

**Code Section Added:** § 58.1-3824

***James City and York Counties Authorized to Impose an Additional Tax - Amended***

Senate Bill 652 (Chapter 828) authorizes the counties of James City and York to impose an additional transient occupancy tax not to exceed \$2 per night for the occupancy of any overnight guest room. The revenues generated from this tax must be spent for advertising the Greater Williamsburg area as an overnight tourism destination by the members of the Williamsburg Area Destination Marketing Committee. This bill also creates guidelines for the establishment of the Williamsburg Area Destination Marketing Committee

**Effective Date:** July 1, 2004

**Code Section Amended:** § 58.1-3823

***Localities Identified by Name Rather than Population Within Legislation - New***

Senate Bill 684 (Chapter 610) changes the system for referencing the localities entitled to impose the local transient occupancy tax and the local meals taxes by naming the affected localities, instead of using population classifications.

**Effective Date:** July 1, 2004

**Code Sections Amended:** §§ 58.1-3819, 58.1-3822, 58.1-3823, 58.1-3833 and 58.1-3842

## **Coal and Gas Road Improvement Tax**

### ***Direct Revenue Distribution to Local Public Service Authority - New***

House Bill 1426 (Chapter 871) and Senate Bill 642 (Chapter 893) require that any revenues generated by the coal and gas road improvement tax and designated for water systems and/or sewer systems to be distributed directly to the local public service authority rather than the local governing body.

**Effective Date:** July 1, 2004

**Code Section Amended:** §§ 58.1-3713

### ***Appropriation Flexibility and Direct Revenue Distribution to Local Public Service Authority - New***

Senate Bill 642 (Chapter 893) authorizes localities that comprise the Virginia Coalfield Economic Development Authority to use a portion of the local coal and gas road improvement tax that is currently allocated for construction of new or enhanced water systems and lines for the construction of new or enhanced sewer lines as well.

**Effective Date:** July 1, 2004

**Code Sections Amended:** § 58.1-3713.01

**LEGISLATIVE**

**STUDIES**

***HJR 82: Study of Economic Impact of Nonstate Cultural Institutions***

Directs the Department of Taxation to collect sales tax data pertaining to the economic impact of nonstate agency cultural institutions on the Commonwealth. In collecting the data, the Department of Taxation shall compile sales tax collections for businesses in the immediate vicinity of nonstate agency cultural institutions located in the Cities of Norfolk, Lynchburg, Richmond, and Roanoke, and the County of Fairfax that received more than \$50,000 in state funds in a single year within the last five years.

An interim report is due by the first day of the 2005 Session, with the final report due by the first day of the 2006 Session.

***HJR 172: JLARC to Study Jurisdictions that Replaced Income Tax Revenues with Sales and Use Tax Revenues***

The Joint Legislative Audit and Review Commission (JLARC) is directed to collect data and information from other states and countries that have replaced income tax revenues with sales and use tax revenues and shall submit to the Division of Legislative Automated Systems an executive summary report detailing their findings by the first day of the 2005 General Assembly.

***HJR 176: Study of Economic Impact of Collection of "Remote" Sales and Use Taxes***

A joint subcommittee is established to study the impact of collecting remote sales taxes on the economy of the Commonwealth, including the impact on revenue and small businesses. In conducting its study, the joint subcommittee shall determine the amount of revenue the Commonwealth would generate and the impact on small businesses within the Commonwealth if the Commonwealth collected taxes on remote sales and the ability to use the lack of a requirement to collect remote sales as a marketing tool. The subcommittee will submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations by the first day of the 2005 General Assembly.

***HR 5004: Study Impact of Sales and Use Tax and Corporate Income Tax Preferences***

The House Finance Committee will study the sales and use tax and individual and corporate income tax preferences (exemptions, credits, deductions, and subtractions) found in Title 58.1 of the Code of Virginia. The committee shall (i) examine the policy reasons for such tax preferences, (ii) make recommendations regarding which, if any, preferences should be repealed or amended, and (iii) develop criteria for granting any such future tax preferences.

The Committee shall complete its meetings by November 30, 2004, and the Chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2005 Regular Session of the General Assembly. The executive summary shall state whether the Committee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a document.

***HB 1174: Telecommunications and video taxation; proposed changes***

Declares the intent of the General Assembly to enact legislation in the 2005 Session to restructure the state and local taxation of retail telecommunications services, effective July 1, 2005.

It is expected that the current telecommunications taxes and fees will be replaced with a yet-to-be-named tax on all retail telecommunications services and a uniform statewide 911 tax and fee on all lines. The new taxes and fees would appear as line items on customers' bills. With the exception of the wireless 911 revenues, which would be distributed to the Wireless E-911 Services Board, the new taxes and fees would be remitted by service providers to an unnamed central authority.

The Auditor of Public Accounts is required to determine the revenues received by the Commonwealth and its localities from the current taxes and fees during FY 2004 and determine whether the intended tax rates would be sufficient to replace revenues from the repealed taxes. Should revenues from the new taxes and fees not be sufficient to replace the current taxes and fees, the General Assembly would not proceed with telecommunications tax restructuring legislation in the 2005 Session.

This bill is a recommendation of the Joint Subcommittee Studying the State and Local Taxation of the Telecommunications Industry and its Customers Pursuant to HJR 651 (2003).

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